§ 780.125 Raising of poultry in general.

(a) The term “poultry” includes domesticated fowl and game birds. Ducks and pigeons are included. Canaries and parakeets are not included.

(b) The “raising” of poultry includes the breeding, hatching, propagating, feeding, and general care of poultry. Slaughtering, which is the antithesis of “raising,” is not included. To constitute “agriculture,” slaughtering must come within the secondary meaning of the term “agriculture.” The temporary feeding and care of chickens and other poultry for a few days pending sale, shipment or slaughter is not the “raising” of poultry. However, feeding, fattening and caring for poultry over a substantial period may constitute the “raising” of poultry.

§ 780.126 Contract arrangements for raising poultry.

Feed dealers and processors sometimes enter into contractual arrangements with farmers under which the latter agree to raise to marketable size baby chicks supplied by the former who also undertake to furnish all the required feed and possibly additional items. Typically, the feed dealer or processor retains title to the chickens until they are sold. Under such an arrangement, the activities of the farmers and their employees in raising the poultry are clearly within section 3(f). The activities of the feed dealer or processor, on the other hand, are not “raising of poultry” and employees engaged in them cannot be considered agricultural employees on that ground. Employees of the feed dealer or processor who perform work on a farm as an incident to or in conjunction with the raising of poultry on the farm are employed in “secondary” agriculture (see §§780.137 et seq. and Johnston v. Cotton Producers Assn., 244 F. 2d 553). The activities of the feed dealer or processor, on the other hand, are not “raising of poultry” and employees engaged in them cannot be considered agricultural employees on that ground. Employees of the feed dealer or processor who perform work on a farm as an incident to or in conjunction with the raising of poultry on the farm are employed in “secondary” agriculture (see §§780.137 et seq. and Johnston v. Cotton Producers Assn., 244 F. 2d 553).

§ 780.127 Hatchery operations.

Hatchery operations incident to the breeding of poultry, whether performed in a rural or urban location, are the “raising of poultry” (Miller Hatcheries v. Boyer, 131 F. 2d 283). The application of section 3(f) to employees of hatcheries is further discussed in §§780.210 through 780.214.

§ 780.129 Required relationship of practices to farming operations.

To come within this secondary meaning, a practice must be performed either by a farmer or on a farm. It must also be performed either in connection with the farmer’s own farming operations or in connection with farming operations conducted on the farm where the practice is performed. In addition, the practice must be performed “as an incident to or in conjunction with” the farming operations. No matter how closely related it may be to farming operations, a practice performed neither by a farmer nor on a farm is not within the scope of the “secondary” meaning of “agriculture.” Thus, employees employed by commission brokers in the typical activities conducted at their establishments,